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Federal Communications Commission
Washington, D.C. 20554

JAN 28 1998

97-182

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JAN 30 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Charles H. Taylor
U.S. House of Representatives
231 Cannon House Office Building
Washington, D.C. 20515-3311

Dear Congressman Taylor:

Thank you for your letter dated December 22, 1997, on behalf of your constituent, A. Lee Galloway, Town Manager, Waynesville, North Carolina, concerning the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in his community. Your constituent's letter refers to issues being considered in two proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comments on a Petition for Further Notice of Proposed Rule Making filed by the National Association for Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In DA 96-2140 and FCC 97-264, the Commission twice sought comments on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because both of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in both proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your letter and your constituent's letter, as well as this response, will be placed in the record of both proceedings and will be given full consideration.

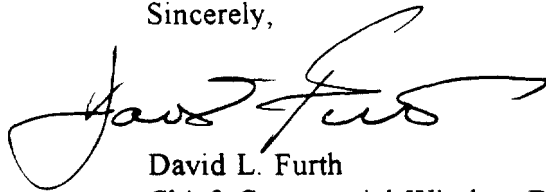
The Honorable Charles H. Taylor

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Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the proceeding involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth", with a stylized, flowing script.

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

CHARLES H. TAYLOR
11TH DISTRICT, NORTH CAROLINA

MEMBER
COMMITTEE ON
APPROPRIATIONS

SUBCOMMITTEE ON
COMMERCE, JUSTICE, STATE

SUBCOMMITTEE ON
INTERIOR

SUBCOMMITTEE ON
DISTRICT OF COLUMBIA
CHAIRMAN



Congress of the United States

House of Representatives

Washington, DC 20515-3311

December 22, 1997

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Ms. Karen Kornbluh
Director, Office of Legislative and Intergovernmental Affairs
Federal Communications Commission
1919 M Street NW Rm 808
Washington, D.C. 20554-0001


Dear Karen:

Please find attached a piece of correspondence I recently received from A. Lee Galloway, the Town Manager of Waynesville, North Carolina. I believe you will find the letter to be self-explanatory.

I would appreciate a formal reply from the FCC regarding Mr. Galloway's concerns about a proposed rule banning the moratorium that local governments have imposed on cellular towers. In addition, I would appreciate any additional information you could provide in regards to this proposed rule.

Thank you for your assistance in this matter. I look forward to your prompt reply.

Sincerely,


Charles H. Taylor
Member of Congress

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OFFICE OF TOWN MANAGER

Town of Waynesville

November 4, 1997

The Honorable Charles Taylor
United States House of Representatives
231 Cannon House Office Building
Washington, D. C.

Dear Representative Taylor:

I am writing to express my displeasure at the intrusion of the Federal Communications Commission into local zoning issues. This issue involves the location of cellular, radio and television towers in local communities.

In Waynesville and a number of other municipalities and counties in North Carolina, the local elected officials have passed moratoriums against any permits for these towers so that regulations may be developed to handle them. Previously, television and radio towers were permitted with few controls, for they were so few in number they did not present much of an eyesore to ridge-lines and there were few complaints from the citizens. With the popularity of cellular telephones, the demand for cellular towers has mushroomed, and there is a fear that every ridge in Haywood County will be dotted with these 250 foot towers. We do not want to create further scars on the landscape of our community by the proliferation of these towers.

From what I understand, the FCC is now proposing a rule banning the moratoriums that many local governments have imposed on cellular towers. It is also my understanding that the FCC has proposed a rule that would automatically grant a permit request relative to radio and television towers if the local government fails to act upon such a request within 45 days of the date of application. These are blatant intrusions into the zoning powers of local governments, and the Congress and federal courts have repeatedly recognized that zoning is a local function, not one dictated by the federal government. The 1996 Telecommunications Act passed by Congress preserved local zoning authority over cellular towers, and it did not delegate such authority to the FCC. It appears to me that the FCC has become much too dictatorial, taking powers which the Congress did not intend to give. As a side comment, I cannot help but point out how much all of us would love to see the day when any federal agency is able to act on any issue within a 45 day time frame as they expect us to do on what should be local zoning matters.

Representative Charles Taylor
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As a Republican, you have frequently spoken against the involvement of the federal government in issues which are better resolved at the local level. This situation is a prime example of where a federal agency has intruded where it has no business and no authority. I would ask that you use your powers to halt this intrusion by the FCC into local affairs.

Your time and consideration of this important issue will be very much appreciated. We hope that you are feeling well and continuing toward a full recovery from your recent stroke.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Lee Galloway".

A. Lee Galloway
Town Manager